

**Hodgson Russ, LLP**  
**60 East 42<sup>nd</sup> Street, 37<sup>th</sup> Floor**  
**New York, New York 10165-0150**  
**Telephone: (212) 661-3535**  
**Deborah J. Piazza, Esq. (DP 6640)**  
**Jennifer L. Rando, Esq. (JR 6222)**  
**Attorneys for Wacker Chemical Corporation**

**Hearing Date: June 5, 2008**  
**Hearing Time: 2:00 p.m.**  
**Objection Deadline: June 2, 2008 by 4:00 p.m.**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

---

In re:  
  
LEXINGTON PRECISION CORP. et al.,  
  
Debtors.

---

Chapter 11  
Case No. 08-11153 (MG)  
(Jointly Administered)

**NOTICE OF MOTION OF WACKER CHEMICAL CORPORATION FOR ENTRY OF  
ORDER AWARDING ADMINISTRATIVE EXPENSE PURSUANT TO 11 U.S.C.  
§503(b)(9) AND REQUIRING IMMEDIATE PAYMENT UNDER §503(a)**

**PLEASE TAKE NOTICE** that on **June 5, 2008 at 10:00 a.m.**, a hearing will be held before the Honorable Martin Glenn, United States Bankruptcy Judge for the Southern District of New York, United States Bankruptcy Court, Courtroom 501, One Bowling Green, New York, New York 10004, to consider the relief requested in the annexed **Motion of Wacker Chemical Corporation for Entry of Order Awarding Administrative Expense Pursuant to 11 U.S.C. §503(b)(9) and Requiring Immediate Payment Under § 503(a)** (the "Motion").

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief requested in the Motion must (1) be in writing and comply with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules, (2) set forth the name of the objecting party, the nature and amount of the claim or interests held or asserted by the objecting party against the Debtors estates or property, the basis for the objection and the specific grounds therefore, (3) be filed

with the United States Bankruptcy Court for the Southern District of New York and served in accordance with General Order M-242 and be further served so as to be received by no later than 4:00 p.m. on June 2, 2008, to Deborah J. Piazza, Esq., 60 East 42<sup>nd</sup> Street, 37<sup>th</sup> Floor, New York, NY 10165.

**Any objection not timely filed and served in the manner set forth above may not be considered and may be overruled by the Court.**

Dated: May 16, 2008  
New York, New York

Respectfully submitted,

/s/ Deborah J. Piazza  
Deborah J. Piazza (DP 6640)  
Jennifer L. Rando (JR 6222)  
HODGSON RUSS LLP  
60 East 42<sup>nd</sup> Street, 37<sup>th</sup> Floor  
New York, NY 10165  
Main: (212) 661-3535

David J. Coyle  
SHUMAKER, LOOP & KENDRICK, LLP  
1000 Jackson Street  
Toledo, Ohio 43604-5573  
Telephone: (419) 241-9000  
Fax: (419) 241-6894

Attorneys for Wacker Chemical Corporation

**Hodgson Russ, LLP**  
**60 East 42<sup>nd</sup> Street, 37<sup>th</sup> Floor**  
**New York, New York 10165-0150**  
**Telephone: (212) 661-3535**  
**Deborah J. Piazza, Esq. (DP 6640)**  
**Jennifer L. Rando, Esq. (JR 6222)**  
**Attorneys for Wacker Chemical Corporation**

**Hearing Date: June 5, 2008**  
**Hearing Time: 2:00 p.m.**  
**Objection Deadline: June 2, 2008 by 4:00 p.m.**

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

In re: ) Chapter 11  
)  
LEXINGTON PRECISION CORP., et al., ) Case No. 08-11153 (MG)  
)  
Debtors ) (Jointly Administered)  
)

\* \* \*

**MOTION OF WACKER CHEMICAL CORPORATION FOR ENTRY OF ORDER  
AWARDING ADMINISTRATIVE EXPENSE PURSUANT TO 11 U.S.C. §503(b)(9) AND  
REQUIRING IMMEDIATE PAYMENT UNDER §503(a)**

Wacker Chemical Corporation (“Wacker”), by and through its undersigned attorneys, hereby files this motion (the “Motion”) for the entry of an order awarding it an administrative expense pursuant to 11 U.S.C. § 503(b)(9). In support of the Motion, Wacker states as follows:

**JURISDICTION**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B).

2. The statutory predicate for the relief requested herein are sections 503(a), 503(b)(9) and 507(a)(2) of title 11 of the United States Code (the “Bankruptcy Code”).

### **BACKGROUND**

3. In the twenty (20) days prior to the Petition Date, Wacker sold the goods identified in the invoices attached hereto as Exhibit A (“Goods”) to Lexington Precision Corporation and its debtor affiliates (the “Debtors”) on credit in the ordinary course of the Debtors’ businesses.

4. On April 1, 2008 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Upon information and belief, the Debtors are continuing to operate their businesses and administer their estates as debtors in possession.

### **RELIEF REQUESTED**

5. By this Motion, Wacker respectfully requests that this Court (i) award Wacker an administrative expense claim in the amount of \$483,744.09 for goods sold and delivered to the Debtors during the twenty (20) days prior to the Petition Date pursuant to section 503(b)(9) of the Bankruptcy Code, and (ii) direct the Debtors to provide immediate payment to Wacker for the Goods pursuant to section 503(a).

### **BASIS FOR RELIEF REQUESTED**

6. Section 503(b) of the Bankruptcy Code provides, in pertinent part, that after notice and a hearing, there shall be an allowed administrative expense claim for:

- (9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.

11 U.S.C. § 503(b)(9); *see In re Dana Corp.*, 367 B.R. 409, 415 (Bankr. S.D.N.Y. 2007).

7. Administrative claims under section 503(b)(9) are granted a priority pursuant to section 507(a)(2) of the Bankruptcy Code. 11 U.S.C. § 507(a)(2). Determining when an administrative expense claim should be paid is within the sound discretion of the Bankruptcy Court. *In re Korea Chosun Daily Times, Inc.*, 337 BR 773, 784 (Bankr. E.D.N.Y. 2005). At the very latest, administrative expenses, including those arising under section 503(b)(9), must be paid in full on the effective date of the plan. *Id.* See also 11 U.S.C. § 1129(a)(9).

8. As evidenced by the invoices attached as Exhibit A, Wacker provided goods valued in the aggregate amount of \$483,744.09 to the Debtors during the twenty (20) days prior to the Petition Date. Such goods were provided on credit, and the Debtors have yet to provide payment for the goods. Therefore, Wacker is entitled to an administrative expense under section 503(b)(9) of the Bankruptcy Code in the amount of \$483,744.09.

9. Wacker provided the goods detailed in the attached invoices to the Debtors in the ordinary course of business of the Debtors. Pursuant to section 503(a) of the Bankruptcy Code, Wacker requests that the Debtor be required to immediately pay to Wacker the amount of \$483,744.09 out of its operations.

10. Nothing contained herein should be construed as a waiver of Wacker's right to file a proof of claim at a later date for amounts not contemplated herein.

WHEREFORE, Wacker respectfully requests that this Court enter an order (i) awarding Wacker an administrative expense claim under section 503(b)(9) of the Bankruptcy Code in the amount of \$483,744.09, and (ii) requiring Debtor to immediately pay Wacker out of its operations and (iii) granting such other relief as is just and proper.

A proposed Order granting this request is attached hereto as Exhibit B.

/s/ Deborah J. Piazza  
Deborah Piazza (DP 6640)  
Jennifer L. Rando (JR 6222)  
HODGSON RUSS LLP  
60 East 42<sup>nd</sup> Street, 37<sup>th</sup> Floor  
New York, NY 10165  
Main: (212) 661-3535

David J. Coyle  
SHUMAKER, LOOP & KENDRICK, LLP  
1000 Jackson Street  
Toledo, Ohio 43604-5573  
Telephone: (419) 241-9000  
Fax: (419) 241-6894

Attorneys for Wacker Chemical Corporation

Date: May 16, 2008